

State of Arizona Department of Financial Institutions



“AzDFI”



Phoenix Chapter of the Appraisal Institute

Wednesday, October 22, 2008

Felecia A. Rotellini, Superintendent

WWW.AZDFI.GOV

Who DFI Regulates in the Mortgage Lending Industry

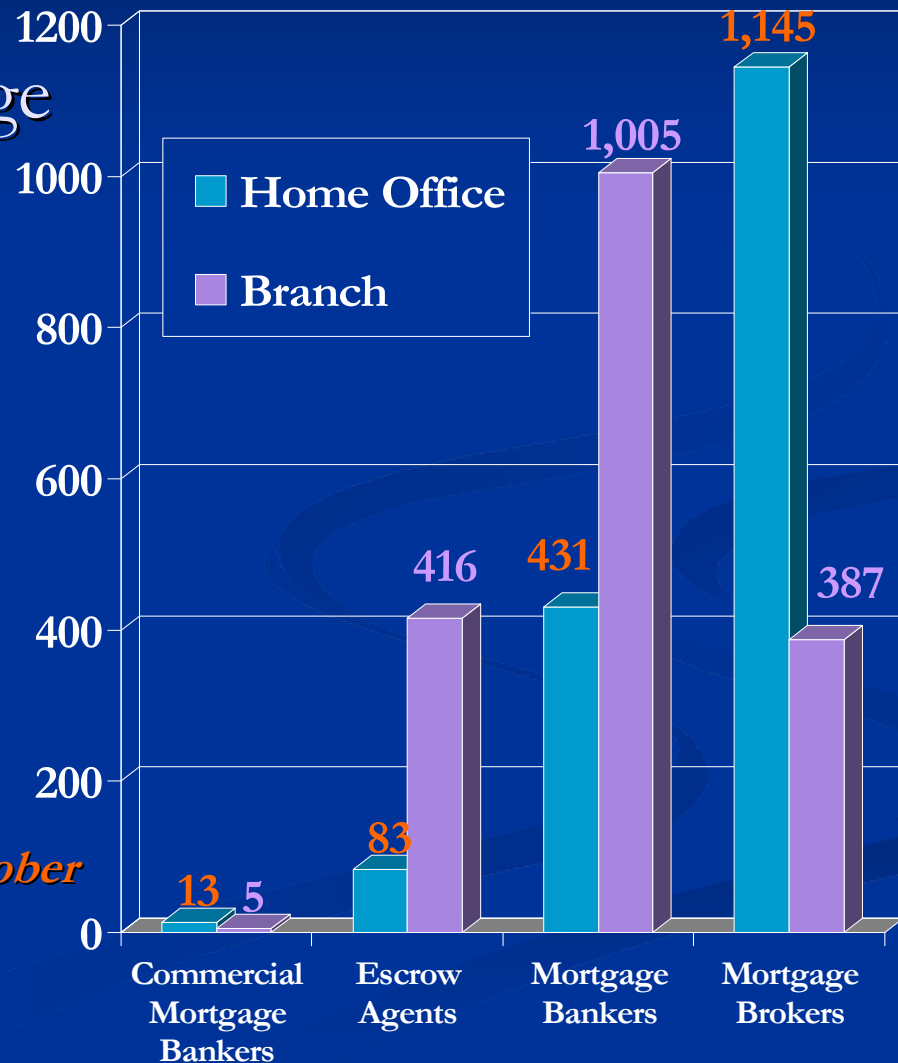
■ Commercial Mortgage Bankers *(13)/(5)*

■ Escrow Agents *(83)/(416)*

■ Mortgage Bankers *(431)/(1,005)*

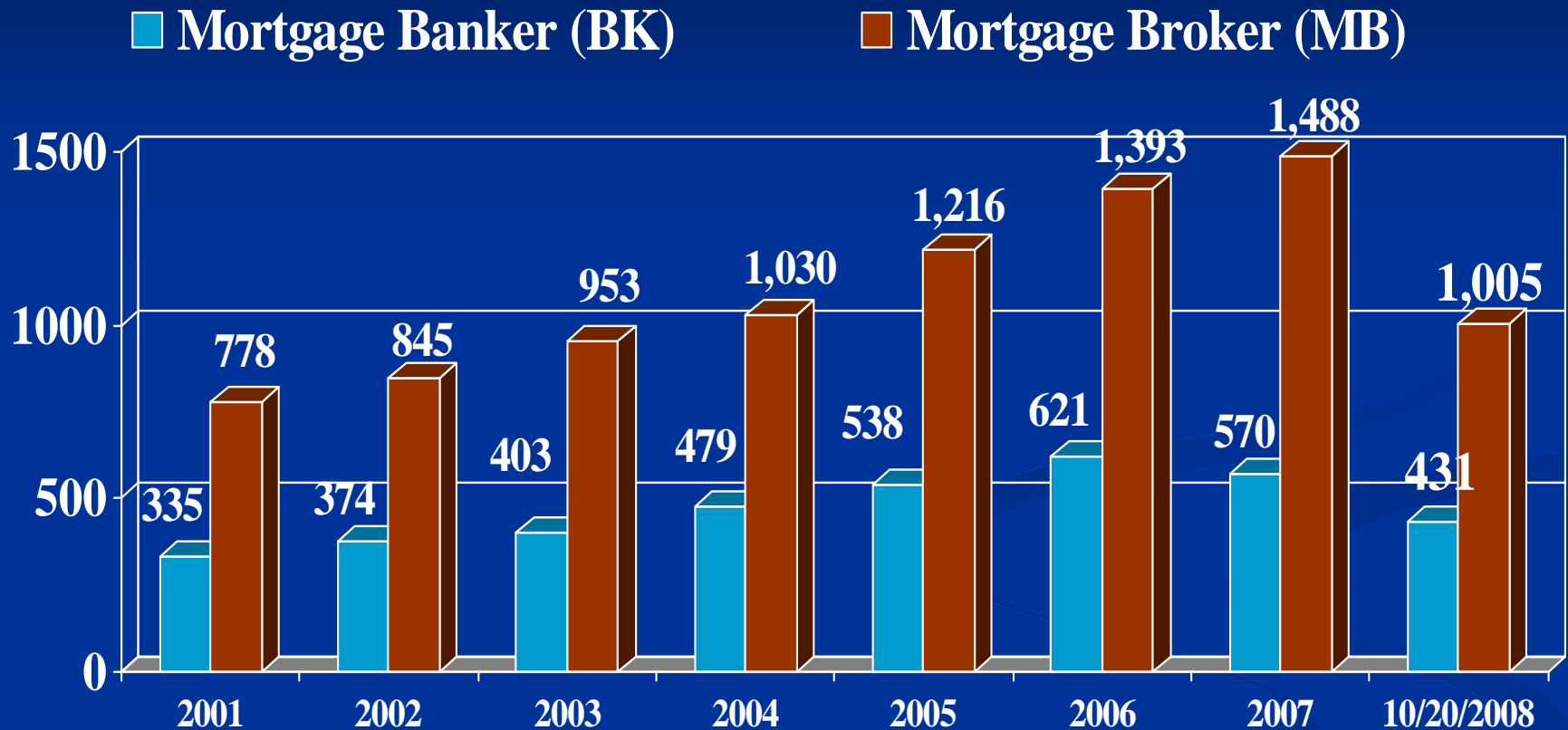
■ Mortgage Brokers *(1,145)/(387)*

All Licenses Current as of October 20, 2008



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Growth Home Offices

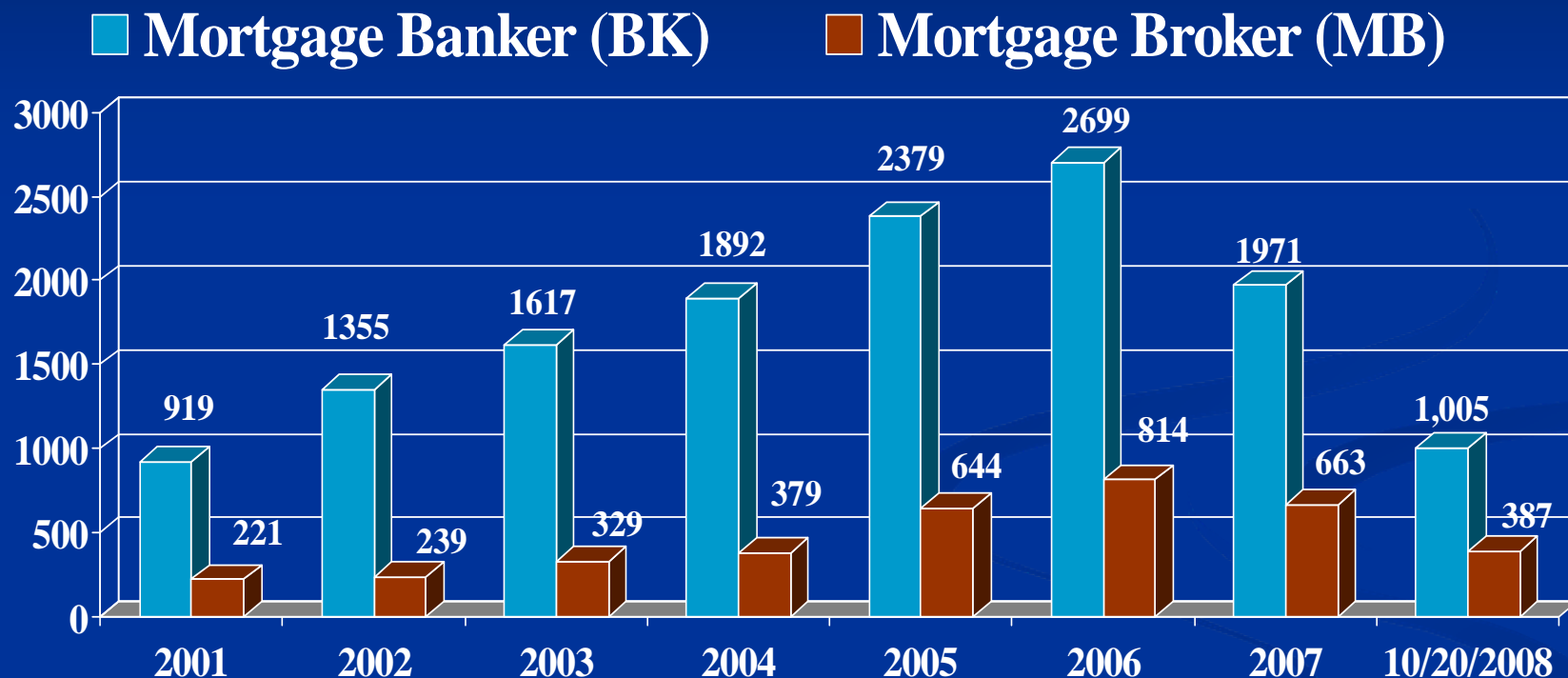


Increase of Mortgage Broker Licensees from 2001 to 2007 = 91.26%

Increase of Mortgage Banker Licensees from 2001 to 2006 = 85.37%

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Mortgage Broker and Mortgage Banker Branches



Combined Total Home Offices and Branches for Bankers and Brokers:

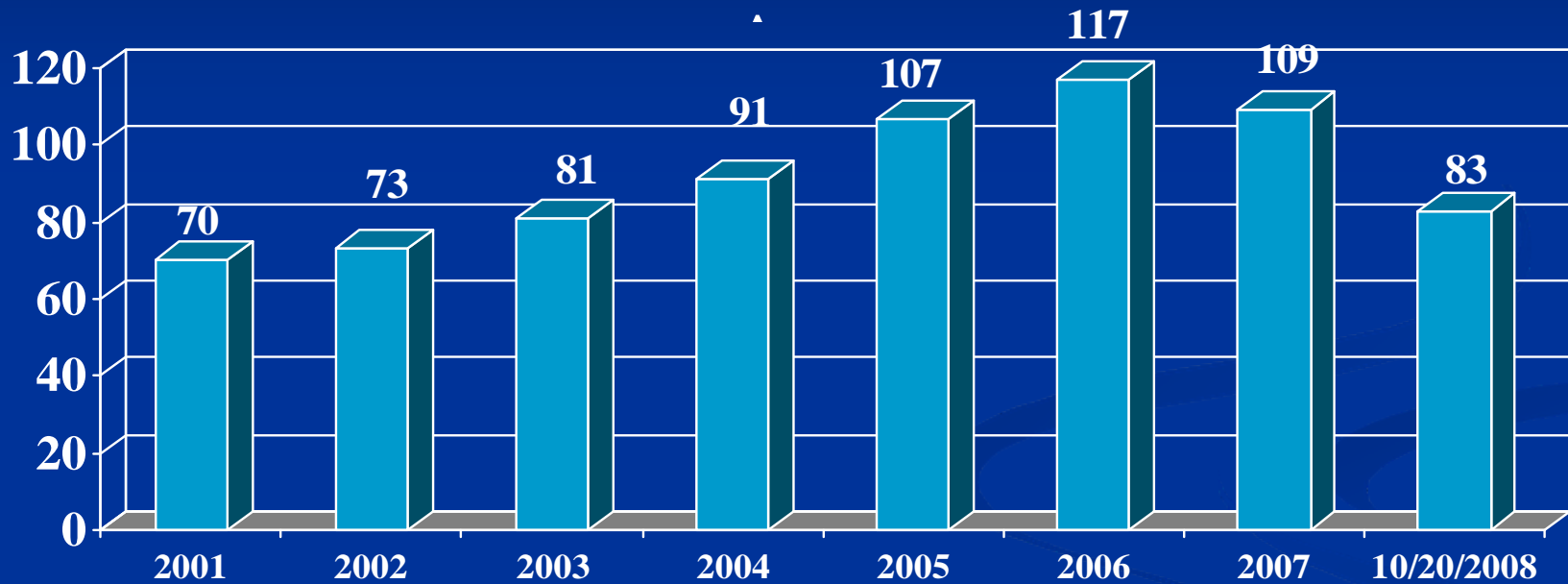
12/31/2001 2,253

10/20/2008 2,968

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Growth - Home Offices

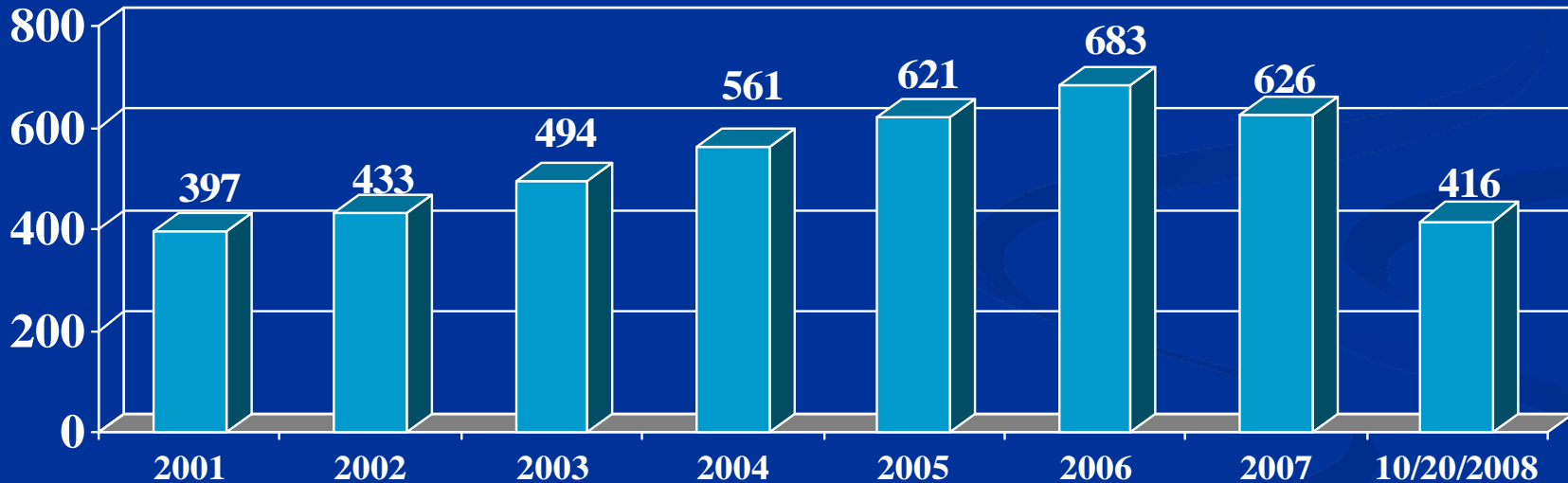
■ **Escrow**



Overall Increase from 2001 to Present: 18.47%

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Growth – Branch Offices

Escrow Agent

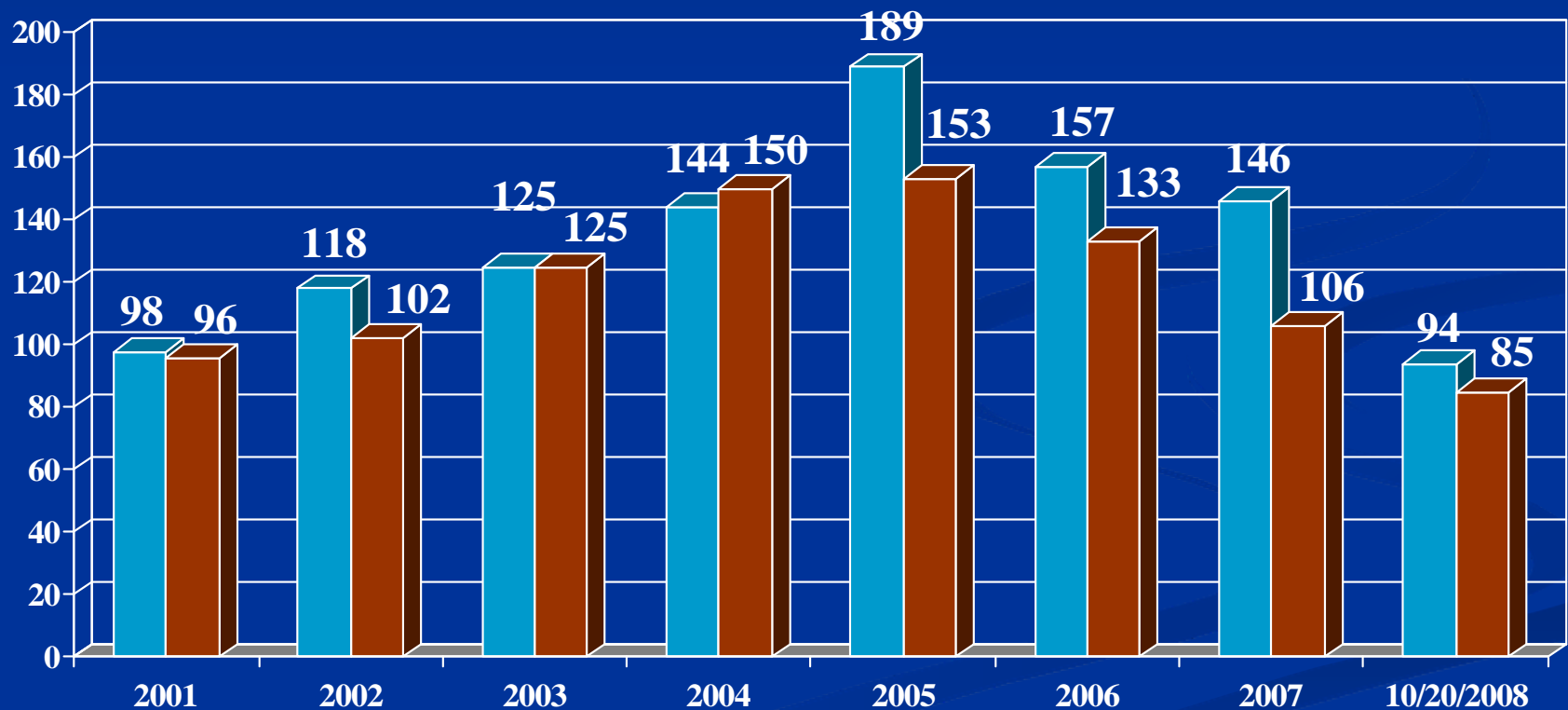


Increase of Branch licenses from 2001 to 2006 = 72.04%

Arizona Department of Financial Institutions
Consumer Affairs

Escrow Agent Complaints

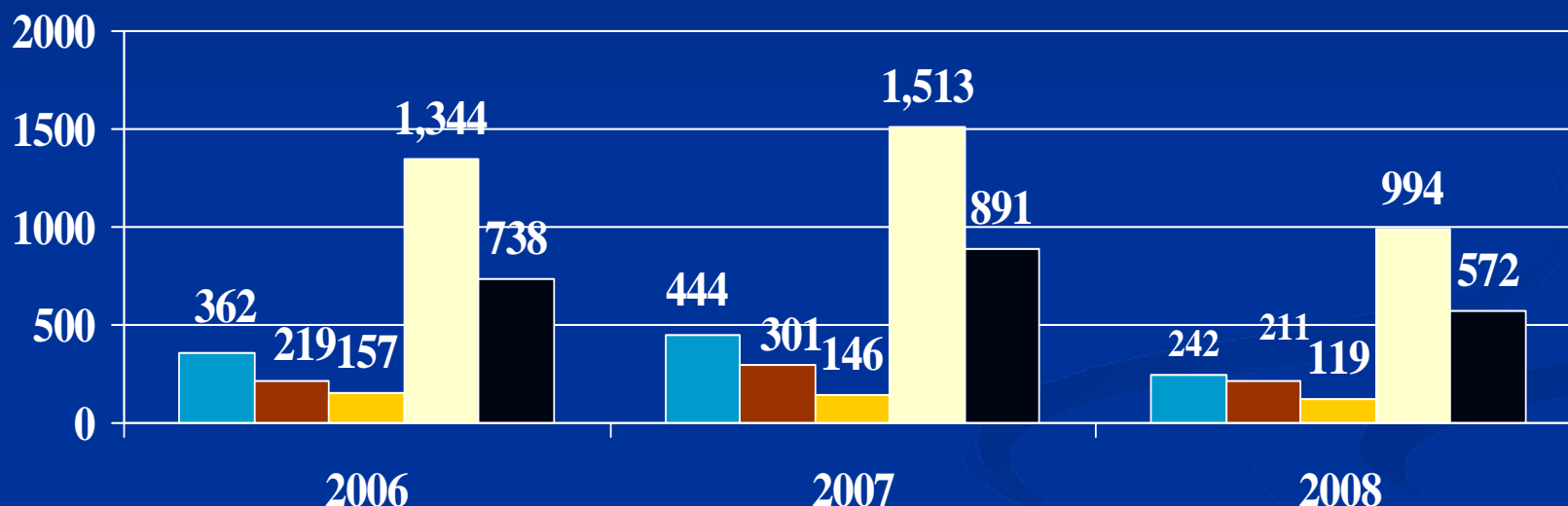
■ Complaints Received ■ Complaints Closed



The Department currently has a total of 994 active complaints. Active escrow agent complaints total 119.

2006 and 2007 DFI Complaints

■ Mortgage Banker (BK) ■ Mortgage Broker (MB)
■ Escrow Agents ■ Total Complaints
■ EA, BK, MB, Total Complaints



In 2006, 55 % of All DFI Complaints involved Escrow Agents, Mortgage Bankers and Mortgage Brokers

In 2007, 59% of All DFI Complaints involved Escrow Agents, Mortgage Bankers and Mortgage Brokers

In 2008, 58 % of all DFI Complaints involved Escrow Agents, Mortgage Bankers and Mortgage Brokers (as of 10/20/08)

Removal Orders (A.R.S. § 6-161)

■ Rick T. McCullough	08/07/08
■ Chris Bartlemus *	06/12/08
■ Lisa Gorney *	06/02/08
■ Wendy Kauffman, FKA Wendy Hahn *	04/04/08
■ Cine Johnson *	01/23/08
■ Mary Lou Pidd *	11/19/07
■ Francisco Vincente Martinez	07/17/07
■ Nancy Wilson *	06/05/07
■ Anna Solis *	04/25/07
■ Claudia Denise Ramsey *	04/19/07
■ Sandra J. Flores *	04/13/07
■ Annette Marie Damico *	02/07/07
■ Margie Lynn Means *	01/22/07
■ Victoria Cervantes *	05/04/07

*Escrow Officers removed from the financial services industry

Violations leading to removal from the financial services industry

Failing to:

- Maintain adequate escrow file documentation - A.R.S. § § 6-837(B) and 6-841(B).
- Properly account for escrow property by improper disbursements - A.R.S. § § 6-834(A) and 6-841.01.
- Properly abide by the terms of the escrow - A.R.S. § 6-834(A).
- Disburse funds according to the HUD-1 escrow provisions - A.R.S. § § 6-834(A) and 6-841.
- Follow written escrow instructions - A.R.S. § § 6-834(A) and 6-841.
- Maintain monies deposited in escrow - A.R.S. § 6-834(A).
- Protect fiduciary duties and commingling monies -A.R.S. § 6-841.01(A).
- Make a truthful promise or representation or disclose an essential or material fact ... A.R.S. § 6-909(L).
- Account for monies belonging to a party to a mortgage loan transaction or to disburse monies in accordance with agreements - A.R.S. § 6-909(M).

How to avoid fraud

- Implement and adopt strict, systematic, internal controls and monitor these control structures regularly. Take action.
- Develop a detailed policy and procedures manual, follow it, update it, and hold employees accountable upon deviation.
- Conduct regularly scheduled training sessions.
- Learn and understand all of the federal and state laws and rules that apply to your industry.

A.R.S. §13-2320 Residential Mortgage Fraud

- Provides a path from investigation to prosecution, conviction and sentencing of persons engaged in the specific crime of mortgage fraud. During the mortgage lending process, an escrow officer(s) commits residential mortgage fraud if, with the intent to defraud, a person does any of the following and that conduct is relied on by a mortgage lender, borrower or other party to the mortgage lending process:
 - Knowingly makes any deliberate misstatement, misrepresentation or omission. (Multiple HUD-1's can be a problem, as well as new escrow instructions or real estate addendums with material changes, that all parties are not aware of).
 - Know your escrow officers. Have internal controls in place!
 - Title Insurers, know your agents, have internal controls in place!

A.R.S. §13-2320 Residential Mortgage Fraud

- Knowingly uses or facilitates the use of any deliberate misstatement, misrepresentation or omission.
- Receives any proceeds or other monies in connection with a residential mortgage that the person knows resulted from a violation of the preceding paragraphs.
- Files with the county recorder any residential mortgage loan document that contains a deliberate misstatement, misrepresentation or omission.

A.R.S. §13-2320 Residential Mortgage Fraud

Class 4 Felony

**An offense involving
residential mortgage fraud**

Class 2 Felony

**A pattern of residential mortgage fraud or
conspiracy to engage or participate in a pattern
of residential mortgage fraud**

A.R.S. §13-2320 Residential Mortgage Fraud

Mortgage Lending Process —

The process through which a person seeks or obtains a residential mortgage loan including solicitation, application, origination, negotiation of terms, third-party provider services, underwriting, signing, closing and funding of the loan.

Pattern of Residential Mortgage Fraud —

One or more misstatement, misrepresentation, or omission that is made during the mortgage lending process that involves two or more residential properties and have the same or similar intents, results or victims.

Residential Mortgage Loan —

A loan or agreement to extend credit to a person that is secured by a deed, security deed, mortgage, security interest, deed of trust or document to secure debt.

Members of the Mortgage Fraud Task Force

- AZDFI Investigators & Examiners
- FBI Agents
- IRS Agents – Criminal Division
- Attorney General Investigators
- City Police Departments
- County Prosecutor & Sheriff Depts.
- AZ Dept of Real Estate Investigators
- HUD OIG Investigators & Auditors
- Social Security Administration OIG Investigators
- ICE
- Freddie Mac Investigators

SB 1028: Loan Originator Licensing

- Beginning January 1, 2010:
 1. All loan originators must be licensed.
 2. To obtain a license, an applicant must:
 - Complete a course of study;
 - Pass an exam;
 - Meet character, competence and credit qualifications; and
 - Have no felonies.

SB 1028: Loan Originator Licensing

A loan originator shall not:

- Independently collect any money or documents with an application for a mortgage loan.
- Independently advertise, display, distribute, broadcast or televise ...any solicitation of mortgage business.
- Concurrently be employed by any other mortgage broker or mortgage banker.
- Collect compensation as a real estate broker or salesperson unless both (a) the loan originator is licensed and (b) the employing mortgage broker or mortgage banker has disclosed *at the time the application is received*, that the loan originator is receiving compensation for both mortgage broker or banker services and for real estate broker or salesperson services.

SB 1028: Loan Originator Licensing

A loan originator shall not:

- Accept any assignment of the borrower's wages or salary.
- Receive or disburse monies in servicing or arranging a mortgage loan.
- Make a false promise or misrepresent or conceal an essential or material fact in the course of mortgage broker or mortgage banker business.
- Engage in illegal or improper business practices.
- Originate a mortgage loan unless employed by a mortgage broker or mortgage banker.